

**AMENDMENTS TO THE FAIRFAX COUNTY CODE
RELATING TO SOLID WASTE MANAGEMENT**

AN ORDINANCE to amend the Code of the County of Fairfax by adding a new Chapter 109.1, Solid Waste Management and by repealing Chapter 109, relating generally to Solid Waste.

Be it ordained by the Board of Supervisors of Fairfax County:

1. That the Fairfax County Code is amended by adding a new Chapter numbered 109.1 as follows:

CHAPTER 109.1 OF THE FAIRFAX COUNTY CODE

CHAPTER 109.1. Solid Waste Management

Article 1. General Requirements.

Section 109.1-1-1. Statement of Policy

Section 109.1-1-2. Definitions.

Section 109.1-1-3. Administration.

Article 2. Recycling.

Section 109.1-2-1. Statement of Policy

Section 109.1-2-2. Recycling for Residential Solid Waste

Section 109.1-2-3. Recycling from Non-Residential Properties

Section 109.1-2-4. Annual report required.

Section 109.1-2-5. Removal of recyclable materials.

Section 109.1-2-6. Maintenance of recycling system.

Article 3. Pre-collection and Storage

Section 109.1-3-1. Storage

Section 109.1-3-2. MSW Management and Recycling Plans

Article 4. Permits

Section 109.1-4-1. General

Section 109.1-4-2. MSW Collector Certificate to Operate (CTO)

Section 109.1-4-3. MSW Collection Vehicle Permit

Section 109.1-4-4. Temporary Collection Vehicle Permit.

Section 109.1-4-5. Collector business office location and contact information.

Section 109.1-4-6. Vehicle Permit Exemption

Section 109.1-4-7. Collection bonding required; condition; term renewal.

Section 109.1-4-8. MSW Disposal Permits

Section 109.1-4-9. Disposal bonding required; condition; term renewal.

Section 109.1-4-10. Temporary disposal permit.

Section 109.1-4-11. Special Wastes/Uses Permitting; General

Section 109.1-4-12. Commercial Cash Accounts

Section 109.1-4-13. Tire Disposal Accounts

Section 109.1-4-14. Special Waste Accounts

Section 109.1-4-15. Other Account Types (reserved)

Section 109.1-4-16. Recycling Business Registration

Article 5. Collection of Solid Waste.

Section 109.1-5-1. Intent

Section 109.1-5-2. Manner of collection.

Section 109.1-5-3. Solid waste to be collected.

Section 109.1-5-4. Frequency of collection.

Section 109.1-5-5. Collection points and set-out restrictions.

Section 109.1-5-6. Collection vehicles and containers.

Section 109.1-5-7. Alteration of collection service; required notices.

Section 109.1-5-8. Advance billing of customer.

Section 109.1-5-9. Rates and charges for residential collection.

Section 109.1-5-10. Assignment of customer.

Article 6. Solid Waste Transportation

Section 109.1-6-1. Manner of Operation.

Section 109.1-6-2. Parking on public rights-of-way prohibited.

Section 109.1-6-3. Parking on private property.

Article 7. Disposal of Solid Waste.

Section 109.1-7-1. Disposal site designation.

Section 109.1-7-2. Hazardous waste prohibited.

Section 109.1-7-3. Out of county waste prohibited.

Section 109.1-7-4. Use of County solid waste management facilities

Section 109.1-7-5. Permit for Solid Waste Management facility--Required.

Article 8. Emergency Provisions

Section 109.1-8-1. Emergency Management

Section 109.1-8-2. Operation of Essential Facilities

Section 109.1-8-3. Emergency Debris Management

Article 9. Enforcement.

Section 109.1-9-1 Enforcement Authorities

Section 109.1-9-2 Definition of Violation.

Section 109.1-9-3 Requirements for Written Notice

Section 109.1-9-4. CTO and/or permit suspension and revocation.

Section 109.1-9-5 Penalties - Recycling Violations

Section 109.1-9-6 Penalties - Disposal Violations

Section 109.1-9-7 Penalties - Contracting with Unauthorized Collector

Section 109.1-9-8 Penalties - Violations Not Otherwise Specified

Section 109.1-9-9 Penalties - Escalation of Penalty for Repeat Offenders

Section 109.1-9-10 Continuing Violations.

Section 109.1-9-11 Consent Agreements

ARTICLE 1. General Requirements.

Section 109.1-1-1. Statement of Policy

(a) The purpose of this Chapter is the furtherance of effective solid waste management, as provided for and authorized by the Code of Virginia (e.g., Titles 10.1 and 15.2). Consistent with the Code of Virginia, and complementary to its intent, the efficient management of the municipal solid waste (MSW) management system (e.g., recycling, collection, transfer, and disposal of solid waste) with as few negative environmental and economic impacts as possible is an essential and integral part of promoting public health and welfare. This Chapter therefore intends to protect life, property, and the general environment, by establishing standards and procedures for the administration and enforcement of such standards as they relate to the control, collection, transportation, and disposal of MSW, and to promote source reduction and recycling as means of reducing the amount of MSW that has to be disposed.

To these ends, this Chapter acknowledges and/or authorizes the following supporting documents that further describe critical elements of the County's solid waste management system that may be updated or revised from time to time:

- 1) The County's Solid Waste Management Plan;
- 2) The County's Recycling Program Requirements; and
- 3) Other County Solid Waste Management Program guidance and requirements, as they are developed by the Director.

(b) Applicability.

Except as otherwise provided, this Chapter, and any regulations or administrative directives or procedures issued under its authority, apply to all residents and commercial, industrial, and institutional establishments within or doing business within the County, and any person or entity who collects, transports, disposes, or otherwise manages solid waste, and/or recyclable materials as defined elsewhere in this Chapter.

Section 109.1-1-2. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings ascribed to them in this Section:

Authorized Agent means the individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with this Chapter.

Brush means shrub and tree trimmings arising from i) general residential landscape maintenance and ii) similar non-residential landscape maintenance. For the purpose of this Chapter, brush shall be limited to individual pieces or bundles of no greater than 50 pounds in weight, four feet in length, and no piece larger than six inches in diameter. Christmas trees of no more than eight feet in length are exempt from these size limitations.

Collection means the collection and transportation of municipal solid waste.

Collection vehicle means any vehicle used to collect and/or transport municipal solid waste.

Collector means any person engaged in the commercial collection and/or transportation of municipal solid waste from two (2) or more residential, commercial, industrial, institutional or other establishments.

Compensation means any type of consideration paid for the collection, transportation or disposal of solid waste and/or recyclables, including, but not limited to, direct or indirect compensation by tenants, licensees, or similar persons.

Composting facility means a permitted facility producing a stabilized organic material.

Construction/Demolition Debris (CDD) means solid waste generated during construction, remodeling, repair, or demolition of pavements, houses, commercial buildings or any other structures. CDD includes, but is not limited to: lumber; wire; sheetrock; brick; shingles; glass; pipes; concrete; paving materials; metals; and plastic; if part of the materials of construction and/or empty containers for such materials.

Construction/Demolition Debris (CDD) Landfill means a land burial facility which accepts CDD for disposal.

Customers means anyone providing compensation to collectors and/or recycling or disposal facilities. Persons using County drop-off facilities shall also be considered customers.

Department means the Fairfax County Department of Public Works and Environmental Services.

Director means the Director of the Fairfax County Department of Public Works and Environmental Services or his/her designee.

Disposal means the final placement or destruction of solid waste.

Disposal site means a facility at which solid waste is disposed.

Energy/Resource Recovery Facility (E/RRF) means a disposal site designed for the purpose of reducing the volume of solid waste through incineration. The process further produces steam, and/or possibly electricity, as a result of the combustion process.

Hazardous Waste means a "hazardous waste" as described by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60).

Household Hazardous Waste (HHW) means discarded household products that contain corrosive, toxic, ignitable, or reactive ingredients, or are otherwise potentially harmful if released to the environment. Products that fall into this category include, but are not limited to certain paints, cleaners, and pesticides. Latex paint is not HHW.

Materials Recovery Facility (MRF) means a facility where source-separated recyclables are either stored until large enough volumes are collected to be shipped to a buyer or processor, or they are processed to meet the specifications of recycling markets.

Mixed Paper means flattened corrugated cardboard, magazines, catalogues, envelopes, office paper, brochures, phone books, junk mail, food boxes (such as cereal and cracker boxes), shoe boxes, and any other clean paper product without food residue.

Municipal Solid Waste (MSW) means that waste which is normally composed of residential, commercial, and institutional solid waste and residues derived from combustion of these wastes, as defined in Virginia's solid waste management regulations at 9 VAC-20-80-10, Part I.

Person means and includes an individual, corporation, association, firm, partnership, joint stock company, county, city, town, or any other legal entity.

Principal Recyclable Material (PRM) means the recyclable material from the following list that comprises the majority of a business or commercial property's waste stream: newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard, kraft paper, container glass, aluminum, high-grade office paper, tin cans, cloth, automobile bodies, plastic, clean wood, brush, leaves, grass and other arboreal materials. "Principal recyclable materials" do not include large diameter tree stumps.

Putrescible material means organic material that can decompose.

Recyclable materials means any of the materials that are or may be recycled, including but not limited to those listed in Article 2 - Recycling

Recycling means the process of separating a material from the waste stream with the intent of diverting it from disposal as solid waste.

Recycling Center means a facility used for the collection of source-separated recyclable materials.

Recycling route means the route a collector follows to collect source-separated recyclable materials from customers.

Recycling system means the means by which recyclable materials are separated from the waste stream at the point of generation, and may include the means of delivering source-separated materials to a recycling center or MRF.

Refuse means all solid waste having the character of solids

rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

Regulations means rules, guidance, and/or requirements issued by the Director pursuant to this Chapter.

Responsible Company Official means the individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with this Chapter.

Sanitary landfill means a land burial facility for the disposal of solid waste which is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to public health or the environment; provided, however, that the term "sanitary landfill" shall not mean a land burial facility which only accepts non-putrescible solid waste (such as a CDD landfill, as defined in this Chapter).

Significant Modification means any physical change in or change in the method of operation of a commercial establishment that has the potential to result in a change in the quantity or characteristics of solid waste or recyclable materials being generated or managed by the establishment or facility.

Solid waste means any material defined as 'solid waste' in 9 VAC 20-80-140 et seq., of Virginia's solid waste management regulations.

Solid waste generators includes any persons that produce solid waste.

Source reduction is the reduction or elimination of the quantity or toxicity of waste being generated, which can be achieved through changes within the production process, including process modifications, feedstock substitutions, improvements in feedstock purity, shipping and packing modifications, housekeeping and management practices, or increases in the efficiency of machinery and recycling within a process. The term does not include dewatering, compaction, or waste reclamation.

Source separation is the process of removing recyclable materials from the waste stream at the point where the material is generated. For residential material, the source is considered the household and contiguous residential property such as lawns or yards. For commercial material, the source is considered the

commercial premises in which business is conducted and contiguous property such as storage yards.

Tare weight means the operating weight of a fully-fueled vehicle with no payload but includes the driver; i.e., the empty weight of the vehicle.

Transfer station means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to other vehicles or means of transportation, for shipment to another site for permanent disposal.

Tree Removal means any activity which generates solid waste from the maintenance, trimming, or removal of trees or shrubs where any individual piece or bundle exceeds 50 pounds in weight, is longer than four feet in length, or larger than six inches in diameter. Christmas trees are exempt from these size limitations if they are less than eight feet in length.

Unacceptable waste means solid waste which is prohibited from disposal by Fairfax County Code, rules or regulations, the Code of Virginia and/or the Code of Federal Regulations.

Waste collection route means the route a collector follows to collect any solid waste set out by customers for collection.

Yard waste means the organic fraction of municipal solid waste that consists of grass clippings, leaves, and brush arising from general landscape maintenance. Yard waste also includes similar materials collected from non-residential landscape maintenance, such as maintenance of streets, parks and recreational areas. Yard waste does not include any materials arising from tree removal, land clearing, or development activities.

Section 109.1-1-3. Administration.

(a) The Director shall be responsible for the administration and enforcement of this Chapter. Fairfax County Departments that shall assist in enforcing this Chapter, in cooperation with the Director, include but are not limited to, the Health Department, the Police Department, the Fire and Rescue Department, the Department of Planning and Zoning, and the Park Authority.

(b) The Director shall have the power to make and issue fair and reasonable rules and regulations which will carry out the purposes and intent of this Chapter; the right to enter and inspect the business premises and collection vehicles of any collector and of any solid waste management facility; the right to require reasonable conditions in the application for a solid waste permit; the right to prohibit disposal of certain unacceptable waste at the I-66 Transfer Station, I-95 Sanitary

Landfill or I-95 Energy/Resource Recovery Facility; and the right to adopt reasonable application forms and permit forms; provided that nothing herein contained shall in any way affect the authority of any other County agency as otherwise provided by the *Code of the County of Fairfax*.

(c) The Director shall determine solid waste permit fees, and set fees to be charged for the disposal of solid waste at all Fairfax County owned, operated, or associated disposal sites. The Director may change, at any time, the fees charged for the solid waste permits and for the disposal of solid waste at the I-66 Transfer Station, I-95 Sanitary Landfill, I-95 Energy/Resource Recovery Facility, or other associated solid waste management facility.

(d) The Director shall be responsible for implementing a recycling program, and shall have the authority to enforce compliance through use of civil penalties as authorized by this Chapter.

ARTICLE 2. Recycling.

Section 109.1-2-1. Statement of Policy

(a) This Article defines the recycling system for the residences and non-residential properties in Fairfax County, and identifies and describes the following elements of the recycling system:

(1) Materials that must be source-separated for recycling at both residences and non-residential properties (defined for the purposes of this Chapter as *recyclable materials*);

(2) Parties responsible for the provision of certain residential and non-residential recycling systems; and

(3) Required recycling reports to the County.

(b) Methods available for implementation and enforcement of this Article are described elsewhere in this Chapter as follows:

(1) Article 3 addresses pre-collection and storage;

(2) Article 5 describes collection requirements; and

(3) Article 9 presents the means and process of Code enforcement for this Chapter.

(c) The Director may approve alternative recycling systems that can demonstrate compliance with the intent of this Article to the satisfaction of the Department.

(d) The Director may designate or alter which of the recyclable materials identified in Sections 109.1-2-2 and 109.1-2-3 must be source separated.

(e) The provisions of this Chapter shall not affect the right of any person to sell or otherwise dispose of solid waste material as provided in the Code of Virginia, Section 15.2-933, nor permitted under any other law of the Commonwealth of Virginia.

(f) For purposes of this Article, non-residential properties shall specifically include schools and other institutions.

Section 109.1-2-2. Recycling for Residential Solid Waste

(a) Occupants of single-family homes and townhouses shall source-separate: container glass; metal food and beverage containers; plastic bottles and jugs; yard waste; scrap metal; and cardboard and mixed paper, including but not limited to corrugated cardboard (that must be flattened), magazines, newspaper, office paper, and miscellaneous paper products.

(b) Within one year of the effective date of this Chapter, owners of existing multi-family dwelling units shall provide, or cause to be provided, a recycling system for their residents to source-separate cardboard and mixed paper (including but not limited to corrugated cardboard, magazines, newspaper, office paper, and miscellaneous paper products), and must provide each unit with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter. Notification may be in the form of community newspapers or other outreach techniques.

(c) Owners of multi-family dwelling units constructed on or after July 1, 2007, shall provide, or cause to be provided, a recycling system for their residents to source-separate container glass, metal food and beverage containers, plastic bottles and jugs, scrap metal, cardboard and mixed paper (including but not limited to corrugated cardboard, magazines, newspaper, office paper, and miscellaneous paper products), and must provide each unit with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter. Notification may be in the form of community newspapers or other outreach techniques.

(d) The provisions at 109.1-2-2 do not impose any liability upon any multi-family dwelling unit owner for failure of residents to comply with the requirements for the separation of recyclable materials nor upon any collector or transporter of

recyclable materials for failure of its customers to comply with such regulations. However, all multi-family dwelling unit owners must provide a recycling system for their residents that conforms to the County requirements for such systems, and must provide such residents with regular notifications, as specified herein.

Section 109.1-2-3. Recycling from Non-Residential Properties

(a) Within one year of the effective date of this Chapter, owners of non-residential properties shall provide, or cause to be provided, a recycling system for their tenants, occupants, employees, and vendors to source-separate the establishment's cardboard and mixed paper (including but not limited to corrugated cardboard, magazines, newspaper, office paper, and miscellaneous paper products). Owners must also provide system users with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter.

(b) Owners of non-residential properties that meet or exceed the size thresholds defined in the County's Recycling Program Requirements shall also provide, or cause to be provided, a recycling system for their tenants, occupants, employees, and vendors to source-separate the establishment's Principal Recyclable Material (PRM). Owners must also provide system users with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter.

(c) Non-residential properties which generate cardboard and mixed paper as their PRM need only recycle those materials.

(d) Within one year of the effective date of this Chapter, construction and demolition contractors shall source-separate corrugated cardboard.

(e) The provisions at 109.1-2-3 do not impose any liability upon any non-residential property owner for failure of tenants, occupants, employees and/or vendors to comply with the requirements for the separation of recyclable materials, nor upon any collector or transporter of recyclable materials for failure of its customers to comply with such regulations. However, all non-residential property owners must provide, or cause to be provided, a recycling system for their tenants, occupants, employees, vendors, and/or customers in conformance with the County requirements for such systems, and must provide such tenants, occupants, employees, vendors, and/or customers notification regarding the use and participation in such system, as specified herein.

Section 109.1-2-4. Annual report required.

The owners of all non-residential properties that meet or exceed the size thresholds defined in the County's Recycling Program Requirements, and companies that manage municipal solid

waste or recycle materials generated in Fairfax County, shall annually report, by March 1 for the previous calendar year, such nonproprietary information regarding waste generation, waste management, and recycling as is necessary to facilitate County compliance with regulations adopted pursuant to the *Code of Virginia*, Section 10.1-1411. All reports required by this section shall be based on volume or weight of each material recycled, provided that where such measurements cannot be accurately determined, the report may be based on carefully estimated data. Where estimates are submitted, they must contain sufficient detail to reasonably describe how the estimate was prepared, including but not limited to such data as container volume, frequency of collection, percent full when collected, and the type of material collected for recycling. When information is withheld as proprietary, the report shall specify the nature of the information withheld and the basis for its proprietary determination. Annual recycling reports shall be submitted on a standardized form to be provided by the Director, and shall be signed by a responsible company official. Said reports shall include but not be limited to the name and address of the reporting entity, period of time covered by the report, and type and weight/volume of each material reported. Supporting documentation used in preparation of the report shall be retained for audit and clarification of reported data for a period of two (2) years following submissions of said report.

Section 109.1-2-5. Removal of recyclable materials.

It shall be unlawful for any person to salvage or otherwise remove any recyclable materials from recycling routes, private recycling containers, Fairfax County recycling centers, or any other County solid waste management facility without the authorization of the Director.

Section 109.1-2-6. Maintenance of recycling system.

(a) No solid waste permit shall be issued to a collector or continue in effect until and unless the collector provides a written statement that it maintains a recycling system for residential customers, in accordance with this Chapter, and offers a recycling system to multi-family and non-residential customers.

(b) Recycling containers shall be subject to the requirements of Article 5 - Collections, Section 109.1-5-5 (a) through (f).

ARTICLE 3. Pre-collection and Storage

Section 109.1-3-1. Storage

All occupants of single-family homes and townhomes, and owners of multi-family dwelling units or non-residential properties in the County shall maintain secure, safe, and sanitary facilities for storage of municipal solid waste (MSW) and recyclables. Such facilities shall be convenient to inspection and collection, being appropriate as to the type of collection system, size of containers, and frequency of collection.

Section 109.1-3-2. MSW Management and Recycling Plans

(a) The owner of any non-residential property or any multi-family dwellings subject to the source separation requirements of Article 2 shall develop a MSW Management and Recycling Plan, and make these Plans available to the Director for review upon request. The Plan shall describe, at minimum:

- 1) Facility name and street address;
- 2) Name(s) of collection company(ies) providing refuse and recycling collection;
- 3) Number, location, and size of refuse and recycling containers or equipment;
- 4) Recyclable Material(s) collected;
- 5) Frequency of MSW and recycling collection; and
- 6) Name and telephone number of the responsible company official or property owner's representative for implementing the plan.

(b) The MSW Management and Recycling Plan shall be updated concurrent with the following events:

- (1) Construction of a new facility or significant modification to an existing facility;
- (2) Change of ownership or property management firm; and
- (3) Change of solid waste collection vendor or every five years, whichever comes first.

(c) The MSW Management and Recycling Plan shall be provided within 30 days of receiving a written request from the Director.

ARTICLE 4. Permits

Section 109.1-4-1. General

(a) The County shall regulate certain aspects of its integrated solid waste management system through the following programs:

- 1) MSW Collector Certificate to Operate (CTOs);
- 2) Solid Waste Permits, including:
 - (i) MSW Collection Vehicle Permit;
 - (ii) MSW Disposal Permit; and
 - (iii) Special Waste/Use Permits, including Commercial Cash Accounts, Tire Disposal Accounts, Special Waste and Other Accounts; and
- 3) Recycling Business Registration

Any person providing regularly-scheduled solid waste collection services is required to maintain a CTO and one or more collection vehicle permits. Any person providing solid waste collection services on an ad-hoc basis is required to maintain the appropriate disposal or special waste/use permit (i.e., no CTO is required).

This provision shall not apply to any business or vehicle which is solely transporting solid waste which has originated and was generated from a site outside Fairfax County to a cooperative, inter-jurisdictional disposal site; provided that the business and/or collection vehicle is duly licensed and/or permitted by a respective member of the disposal site cooperative.

(b) Government entities are exempt from the bonding requirements of this Article.

Section 109.1-4-2. MSW Collector Certificate to Operate (CTO)

(a) No person shall engage in the business of collecting, transporting, and disposing of solid waste in Fairfax County without first obtaining a CTO from the Director; provided, however, that this provision shall not be deemed to apply to the County, nor employees for the holder of any such CTO, nor shall this provision prohibit any individual from collecting, processing, or disposing of their own household solid waste.

(b) The Director shall issue a CTO upon receipt of a complete application and upon a finding that the applicant has complied with all applicable sections of this Chapter; the Fairfax County Code, including the Zoning Ordinance, and the Code of Virginia.

(c) Applicants for a CTO shall provide the Director an application which shall contain at least the following information and documents to ensure that the individual or company is competent to satisfactorily and lawfully perform the proposed service. The application shall include:

- (1) Name of business;
- (2) Type of business (single propriety, partnership, corporation, etc.);
- (3) Name of parent company (if applicable);
- (4) Owner(s) or Authorized Agent;
- (5) Business address;
- (6) Mailing address;
- (7) E-mail address (if available);
- (8) Business telephone number(s) and emergency contact information;
- (9) A certification that the applicant will maintain a business office in accordance with Section 109.1-4-5;
- (10) A complete list of minimum and maximum rates for various residential collection services, and the level of service to be provided for each rate.
- (11) Details of the surety to be used. In the case of a bond, the application shall include the name, address, and phone number of the bonding agency that holds the required solid waste collection, transportation and disposal bond, the amount of bond, the bond duration, and the bond number;
- (12) Name and address of liability insurance company and policy number;
- (13) Name and telephone number of another collector holding an MSW Collector CTO from the Director, which will act in backup capacity if collector has only one (1) permitted collection vehicle;

- (14) Name and address of collection vehicle washing facility where applicant will have collection vehicles washed;
- (15) Street address(es) of collection vehicle parking location(s);
- (16) Residential customer service area by U.S. Postal zip code, and type of service arrangements (e.g., subscription or contract);
- (17) Statement of service for residential customers;
- (18) Certification by the applicant that, at all times, the operation of the business will be in conformance with all applicable statutes, ordinances and court orders, including, but not limited to all applicable sections of this Chapter, the Fairfax County Code, including the Zoning Ordinance, and the *Code of Virginia*, as a condition to the issuance and continued validity of the CTO;

(d) A CTO application shall be approved or denied by the Director within thirty (30) days of the receipt of a complete application.

(e) Upon approval of the CTO application, the following must be provided to the Director prior to issuance of the CTO:

- (1) The applicable solid waste permit fees;
- (2) A bond or alternate surety acceptable to the County;
- (3) For collectors which permit only one (1) collection vehicle, the collector must provide the name, telephone number, and written commitment of another collector with a CTO in Fairfax County that will act in a backup capacity. The applicant must immediately notify the Director concerning any change in this backup collection vehicle capability during the term of the CTO. Backup collection vehicles may not be used to avoid payment of delinquent disposal fees.
- (4) Proof acceptable to the County of a public liability insurance policy covering all operations of such applicant pertaining to such business and all collection vehicles to be operated in the conduct thereof, as a minimum, in the amount required by the Commonwealth of Virginia. The collector shall provide notification to the Director of any new or replacement policy not less than 30 days prior to the effective date of current policy cancellation.
- (5) Certification that all existing customers are or will

be furnished with a statement of service at least annually. This statement of service shall include the following:

- (i) Name of company, address, and phone number;
 - (ii) Notice of any particular company rules and regulations concerning collection, consistent with the provisions of this Chapter;
 - (iii) Notice of company policy concerning collection of solid waste on observed holidays;
 - (iv) Notice of company policy concerning collection of solid waste on days when any natural (e.g., inclement weather) or manmade event interferes with routine collections;
 - (v) Notice to all residential customers that the County Code requires the storage of household solid waste in a water-tight, insect-proof container, which is equipped with a tight-fitting lid, except that household solid waste in plastic garbage bags with closed tops may be placed outside for collection for a period of not more than twelve (12) hours.
 - (vi) Instructions on the appropriate manner for customers to prepare and set out all materials to be collected, including waste and recyclables including, as a minimum, the County's base recycling requirements.
- (6) Evidence that at least one collection vehicle has been inspected and approved in accordance with Section 109.1-4-3.

(f) Any collector illegally collecting solid waste without a CTO may, in addition to any other penalties described in this Chapter, be denied a CTO for a period of up to one (1) year from the time of the offense.

(g) The CTO holder shall pay solid waste disposal fees and abide by the rules and regulations of the facility at which waste is being discharged.

Section 109.1-4-3. MSW Collection Vehicle Permit

(a) All solid waste collection vehicles operating under a CTO shall be inspected on a schedule set by the Director, who shall designate a reasonable time and place for collection vehicle inspections. All vehicles operating under a CTO shall meet the requirements of Section 109.1-5-6 (a) and (b).

(b) A vehicle permit shall be issued by the Director for

each collection vehicle that meets the requirements of Section 109.1-4-3 (a) upon payment of a fee per vehicle.

(c) The Director shall assign a permit number to each approved collection vehicle, and provide a visible permit (e.g., plate, sticker) that shall be permanently affixed by the applicant to both sides of the collection vehicle on the door of the cab or at the farthest point forward on the truck body.

(d) Vehicle tare weights may be reestablished at any time.

(e) Vehicle permits shall expire annually, on fixed dates, or according to another schedule specified by the Director, and shall not be transferred or prorated.

(f) In the event that any permitted collection vehicle is removed from service or sold, the permit holder shall notify the Director and the permit for that collection vehicle shall be removed and returned to the Director no less than 10 business days following the vehicle's removal from service or sale. This shall be done before any permit is issued to the new vehicle owner.

(g) In the event that the permit is not recoverable, the permit holder shall notify the Director in writing of the permit number of said collection vehicle and the circumstances of loss within 30 days. This shall be done, as well as payment of a lost permit fee, before a replacement permit will be issued.

Section 109.1-4-4. Temporary Collection Vehicle Permit.

A temporary permit must be approved by the Director for any additional collection vehicle used by a collector already operating under a CTO. The temporary permit authorizes the collector to use a new, borrowed, rented or demonstrator collection vehicle not currently permitted in the County of Fairfax. The temporary collection vehicle permit shall be valid for ten (10) working days from date of issuance and may not be renewed without the specific approval of the Director. After the expiration of the temporary permit, the collector may use the collection vehicle only if it is permitted in accordance with the provisions of this Chapter.

Section 109.1-4-5. Collector business office location and contact information.

No CTO shall be issued to a collector or continued in effect until and unless the applicant maintains an office that is located and operated in compliance with all laws and regulations applicable to the business. The office shall be used for the transaction of business, such business to include, but not be limited to, the receipt of correspondence and the maintenance of records. In addition, the collector shall maintain a telephone

system for receipt of complaints. Any change of address, telephone number, or authorized agent shall be reported to the Director within twenty-four (24) hours.

Section 109.1-4-6. Vehicle Permit Exemption

Vehicles used exclusively for the collection of recyclables are exempt from the permitting and bonding requirements of this Article, unless the vehicle uses Fairfax County designated disposal facilities, in which case the permit and bonding requirements for collection vehicles shall apply. All recycling collection vehicles shall, however, be subject to the registration requirements of Section 109.1-4-16

Section 109.1-4-7. Collection bonding required; condition; term renewal.

(a) Any person seeking a CTO to collect solid waste as described herein shall furnish a bond or other financial instrument acceptable to the County for each permitted collection vehicle. The surety shall be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless said County, as well as any person, firm, or corporation, from all fees, charges, expenses, or damages that may be incurred by such entity, caused by any failure to comply with the provisions of this Chapter, neglect in the handling of solid waste, or nonpayment of fees imposed for the disposal of solid waste at any County-designated solid waste management facility. Handling of solid waste shall be deemed neglected when the CTO holder fails to meet the frequency and/or quantity of collection required by this Chapter and contracted for by the customer. If the CTO holder fails to correct any such neglect or noncompliance with this Chapter within forty-eight (48) hours after receipt of written notice from the Director, the bond/surety shall be forfeited and the principal and/or surety on said bond shall be required to reimburse the County of Fairfax or any customer of such CTO holder for any expense or damage incurred as a result of such neglect or failure.

(b) The said bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the permit. Cancellation of the bond, for any reason, prior to the date of expiration of the permit shall require a written notification to the Director at least 30 days prior to said cancellation. The collector's permit will be revoked if an alternate bond, meeting the requirements of this section, is not provided.

(c) The Director may increase the bond amount for any CTO holder, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.

Section 109.1-4-8. MSW Disposal Permits

(a) No person shall dispose of municipal solid waste (MSW) at Fairfax County disposal facilities without first obtaining a MSW Disposal Permit, or other appropriate permit, from the Director; provided, however, that this provision shall not be deemed to apply to the County, nor employees for the holder of any such permit, nor shall this provision prohibit any individual from collecting, processing, or disposing of their own household MSW. Non-residential establishments engaged in disposing of their own MSW shall be subject to this provision.

(b) The Director shall issue a permit for MSW disposal upon receipt of a complete MSW Disposal Permit application. The applicant must certify that it has and will comply with all applicable sections of the Fairfax County Code, including but not limited to, this Chapter, the Zoning Ordinance, and the Code of Virginia.

(c) Applicants for a MSW Disposal Permit shall provide the Director an application which shall contain at least the following information and documents:

- (1) Name of company;
- (2) Owner and, if applicable, Authorized Agent;
- (3) Photocopy of drivers license for owner/authorized agent;
- (4) Type of business;
- (5) Business address;
- (6) Mailing address;
- (7) E-mail address (if available);
- (8) Business telephone;
- (9) Name and address of bonding company;
- (10) Bond duration and bond number;
- (11) Truck information, including a photocopy of the vehicle registration.

(d) The disposal permit holder shall pay solid waste disposal fees and abide by the rules and regulations of the facility at which waste is being discharged.

Section 109.1-4-9. Disposal bonding required; condition; term renewal.

(a) Any person seeking a permit only for the disposal of solid waste shall furnish a bond, or other financial instrument acceptable to the County for each permitted vehicle disposing of solid waste at Fairfax County owned, operated, or controlled disposal sites. The surety will be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless the County from all charges, expenses, damages, or nonpayment of charges imposed for the disposal of solid waste at any site designated by the County.

(b) The Director may increase the bond amount for any permit holder, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.

(c) The bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the permit. Cancellation of the bond, for any reason, prior to the date of expiration of the permit shall require a written notification to the Director a minimum of 30 days prior to said cancellation. A disposal permit shall be revoked if an alternate bond or alternate financial assurance mechanism meeting the requirements of this section is not provided.

Section 109.1-4-10. Temporary disposal permit.

The Director may issue a temporary disposal permit to any person seeking solid waste disposal only. The purpose of the temporary disposal permit is to allow said person time to obtain the disposal permit. The temporary disposal permit shall be valid for ten (10) working days from the date of issuance and shall not be renewed or extended without the specific approval of the Director. Prior to issuance of a temporary disposal permit, the applicant's driver's license and vehicle registration with the person's name, mailing address, and phone number is required.

Section 109.1-4-11 Special Wastes/Uses Permitting; General

In addition to the permitting programs for waste collection and disposal companies described above, the County may require and issue permits for the following special waste disposal activities and system users, as described in Sections 109.1-4-12 through 109.1-4-15:

- 1) Commercial Cash Accounts;
- 2) Tire Disposal Accounts;
- 3) Special Waste Accounts; and
- 4) Other Account Types

Special Waste/Uses permit holders shall pay solid waste disposal fees and abide by the rules and regulations of the facility at which waste is being delivered.

Section 109.1-4-12 Commercial Cash Accounts

(a) The Director shall issue a permit for a Commercial Cash Account upon receipt of a complete application and upon a finding that the applicant has complied with all applicable sections of this Chapter, the Fairfax County Code, including the Zoning Ordinance, and the *Code of Virginia*.

(b) Vehicles eligible for the Commercial Cash Program shall have a gross vehicle weight of less than five tons, and shall not include vehicle/trailer combinations too large to be accurately weighed on all County facility vehicle scales.

(c) Applicants for a Commercial Cash Account shall provide the Director an application which shall contain at least the following information and documents:

- (1) Name of company;
- (2) Owner and, if applicable, Authorized Agent;
- (3) Photocopy of drivers license for owner/authorized agent;
- (4) Type of business;
- (5) Business address;
- (6) Mailing address;
- (7) E-mail address (if available);
- (8) Business telephone;
- (9) Truck information, including a photocopy of the vehicle registration.
- (10) Certification by the applicant that, at all times, the operation of the business will be in conformance with all applicable statutes, ordinances and court orders, including all zoning and building requirements, as a condition to the issuance and continued validity of the permit.

(d) The Commercial Cash Account holder shall pay solid waste disposal fees at the time of service, and shall abide by the rules and regulations of the facility at which waste is being discharged.

(e) A Commercial Cash Account application shall be approved

or denied by the Director within thirty (30) days of the receipt of a complete application and required documents.

(f) Commercial Cash Account permits shall expire annually, on fixed dates, or according to another schedule specified by the Director.

Section 109.1-4-13. Tire Disposal Accounts

(a) No person shall dispose of tires at a County solid waste management facility without first obtaining a Tire Disposal Permit, or other permit acceptable to the Director; provided, however, that this provision shall not be deemed to apply to the County, nor employees for the holder of any such permit, nor shall this provision prohibit any individual resident or business from collecting, processing, or disposing of their own tires.

(b) The Director shall issue a permit for a Tire Disposal Account upon receipt of a complete application and upon a finding that the applicant has complied with all applicable sections of this Chapter, the Fairfax County Code, including the Zoning Ordinance, and the *Code of Virginia*.

(c) Applicants for a Tire Disposal Account shall provide the Director an application which shall contain at least the following information and documents:

- (1) Name of business;
- (2) Owner(s) or Responsible Company Official;
- (3) Type of business;
- (4) Mailing address;
- (5) Business telephone number;
- (6) E-mail address (if available);
- (7) Photocopy of owner or responsible company official's drivers license;
- (8) Photocopy of registration for any vehicle used under the Tire Disposal Account;
- (9) Certification by the applicant that, at all times, the operation of the business will be in conformance with all applicable statutes, ordinances and court orders, including all zoning and building requirements, as a condition to the issuance and continued validity of the permit; and

(10) Details of the surety to be used for permitted operations. In the case of a bond, the application shall include the name, address, and phone number of the bonding agency that holds the required bond, the amount of bond, bond duration, and bond number.

(d) A permit shall be issued or denied by the Director within thirty (30) days of the receipt of a complete application and required documents.

(e) Tire Disposal Account permits shall expire annually, on fixed dates, or according to another schedule specified by the Director.

(f) Prior to disposal of tires, Tire Disposal Account holders shall furnish a bond, or other financial instrument acceptable to the County, for each permitted vehicle disposing of tires at Fairfax County owned, operated, or controlled disposal sites. The surety will be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless the County from all charges, expenses, damages, or nonpayment of charges imposed for the disposal of solid waste at any site designated by the County.

(g) The Director may require a higher bond amount, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.

(h) The bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the permit. Cancellation of the bond, for any reason, prior to the date of expiration of the permit shall require a written notification to the Director a minimum of 30 days prior to said cancellation. A Tire Disposal Account shall be revoked if an alternate bond or alternate financial assurance mechanism meeting the requirements of this section is not provided.

Section 109.1-4-14. Special Waste Accounts

(a) The Director shall issue a special waste account upon receipt of a complete application and upon a finding that the applicant has complied with all applicable sections of this Chapter, the Fairfax County Code, including the Zoning Ordinance, and the *Code of Virginia*.

(b) The purpose of the special waste account is to allow for disposal at County facilities of materials or products that may require special review or handling prior to acceptance for disposal.

(c) Applicants for a Special Waste Account shall provide the Director an application which shall contain at least the

following information and documents:

- (1) Name of business;
- (2) Owner(s) or Authorized Agent;
- (3) Type of business;
- (4) Mailing address;
- (5) E-mail address (if available);
- (6) Business telephone number;
- (7) E-mail address (if available);
- (8) Photocopy of owner or responsible company official's drivers license;
- (9) Photocopy of registration for any vehicle used under the Special Waste Account; and
- (10) Certification by the applicant that, at all times, the operation of the business will be in conformance with all applicable statutes, ordinances and court orders, including all zoning and building requirements, as a condition to the issuance and continued validity of the account.

(d) A Special Waste Account permit shall be issued or denied by the Director within thirty (30) days of the receipt of a complete application and required documents.

(e) Special Waste Account permits shall expire annually, on fixed dates, or according to another schedule specified by the Director.

(f) Prior to acceptance for disposal, the Director may require additional information on special waste, including but not limited to origin, and physical and chemical characteristics, if deemed necessary to protect the interests of the County.

(g) Prior to disposal of special waste, the Director may require that Special Waste Account permit holders furnish a bond, or other financial instrument acceptable to the County, for each permitted vehicle disposing special waste at Fairfax County owned, operated, or controlled disposal sites. The surety will be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless the County from all charges, expenses, damages, or nonpayment of charges imposed for the disposal of solid waste at any site designated by the County.

(h) The Director may require a higher bond amount, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.

(i) The bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the permit. Cancellation of the bond, for any reason, prior to the date of expiration of the permit shall require a written notification to the Director a minimum of 30 days prior to said cancellation. A Special Waste Account permit shall be revoked if an alternate bond or alternate financial assurance mechanism meeting the requirements of this section is not provided.

Section 109.1-4-15. Other Account Types (reserved)

Section 109.1-4-16. Recycling Business Registration

(a) Effective July 1, 2007, no person shall engage in the business of collecting recyclable materials in Fairfax County as a commercial enterprise without first registering their organization and all vehicles used for this purpose with the Director; provided, however, that this provision shall not be deemed to apply to employees of the business owner, nor prohibit any individual from collecting, processing, or transporting recyclable materials generated within their own household or commercial establishment.

(b) Persons registering their recycling business shall provide the Director with at least the following information and documents:

- (1) Name of business;
- (2) Type of business (single propriety, partnership, corporation, etc.);
- (3) Name of parent company (if applicable);
- (4) Owner(s) and Authorized Agent (if applicable);
- (5) Business address;
- (7) Mailing address;
- (7) E-mail address (if available);
- (8) Business telephone number;
- (9) A complete list of vehicles to be used in the collection of recyclable materials, including manufacturer, model, and body capacity/style.

- (10) Street address(es) of collection vehicle parking location(s);
- (11) Customer service area by U.S. Postal zip code, and type of service arrangements (e.g., subscription or contract); and
- (12) The types of recyclable material being collected (by established commercial grade), the anticipated quantity to be collected, and the final market, interim processor, or MRF to which collected materials are to be delivered.

ARTICLE 5. Collection of Solid Waste.

Section 109.1-5-1. Intent

In the interest of public health, public safety, environmental quality, and the safeguarding of public and private property, this Article describes the manner in which solid waste shall be collected. Lawful storage, set-out, collection, vehicles, and service levels are also addressed.

This Article is intended to specify the minimum or base levels of service to be provided by permitted solid waste collectors in Fairfax County. Nothing in this Article is intended to prevent a collector from providing a level of service greater than the minimum levels required by this Article, at such rates and charges as agreed between the collector and customer.

Section 109.1-5-2. Manner of collection.

(a) No person shall willfully contract with a solid waste collector(s) or recycling business who does not possess a Certificate to Operate collection services or is not registered with Fairfax County. For purposes of this Section, evidence of a willful violation is the voluntary contracting by a person after having received written notice from the County that the solid waste collector is not authorized to operate within the County or that the recycling business is not registered in the County.

(b) Solid waste collection shall be conducted in such a manner that it does not create a nuisance, a safety hazard, adversely affect public health, or violate any ordinance or *Code of the County of Fairfax*. This includes, but is not limited to, obeying all applicable speed limits and other traffic controls in transit to, from, and while serving collection routes, operating the vehicle on the correct side of the street at all times, giving way to oncoming traffic where it is required by law to do so, and returning empty containers so that they do not interfere with pedestrian or vehicular traffic.

(c) Collection of solid waste shall be by permitted

collection vehicles in such a manner that it is not dumped, spilled, stored or thrown into any street, court, lane, alley, sewer inlet, vacant public lot, public way, or private property or any area not designated as a lawful disposal site.

(d) In the event any solid waste spills or falls into a street, public way, court, lane, or alley during the process of collection, it shall be deemed the responsibility of the collector to immediately correct such conditions.

(e) Solid waste shall be completely emptied at a lawful disposal site as soon as possible after the completion of any daily solid waste collection route, and shall not be stored in solid waste collection vehicles for a length of time exceeding twenty-four (24) hours excluding Sundays.

(f) Collection vehicles shall not be parked overnight anywhere other than in properly zoned locations. Parking of collection vehicles on the public right-of-way, other than temporary stops during the collection route, is a public nuisance per se.

Section 109.1-5-3. Solid waste to be collected.

(a) Municipal solid waste generated by normal household or commercial activities from premises to which collection services are being provided shall be collected in accordance with the requirements of this Chapter.

(b) The collection requirement of 109.1-5-3 (a) is not intended to include the following materials:

- (1) Dead animals and pets;
- (2) Manure;
- (3) Tree stumps;
- (4) Dirt, stone, rock, and brick;
- (5) Containerized liquids;
- (6) Friable asbestos;
- (7) Lead-acid batteries;
- (8) Freon-containing appliances;
- (9) Scrap metal and discarded appliances that are over 50 pounds in weight or 48 inches in length; and
- (10) Poisons, corrosives, flammables, explosives or other unacceptable or hazardous waste.

(c) For materials required to be collected curbside under this Article, no single container or bundle shall exceed fifty (50) pounds gross weight; provided, however, that materials too large for containers may be collected if tied securely in bundles not exceeding four feet in length. Corrugated cardboard shall be collected for recycling when prepared in accordance with the Recycling Program Requirements.

(d) Collection requirements for specific material types shall be as follows:

- (1) *Refuse*: minimum level of service shall include the removal of all refuse that is set out on a weekly basis, and prepared in accordance with Section 109.1-5-3 (c)
- (2) *Recyclable Materials*: minimum level of service shall include the removal of all recyclable materials that are set out curbside on a weekly basis. Other collection frequencies may be adopted for containerized and non-residential recycling service.
- (3) *Yard Waste, including brush*: from March 1 to December 24, minimum level of service shall include separate weekly collection for recycling of up to ten (10) individual bags, containers, or bundles. Outside this period, yard waste may be collected with refuse.
- (4) *Christmas Trees*: minimum level of service shall include the removal of all trees of less than 8 feet in length set out during the first two weeks of January.

(e) Nothing in this Chapter shall preclude the collector from providing a higher level of service than required, with regard to frequency, quantity, size, material type, or other factor.

(f) All solid waste collected by the collector, upon being loaded into the collection vehicle, shall become the property of the collector.

(g) Non-residential municipal solid waste that includes containerized liquids, friable asbestos, lead acid/wet cell batteries, or other unacceptable waste shall not be disposed at Fairfax County solid waste management facilities.

Section 109.1-5-4. Frequency of collection.

(a) Municipal solid waste shall be collected no less than once weekly from single-family residences and townhouses.

(b) Municipal solid waste from all other sources shall also be collected not less than once weekly.

(c) Municipal solid waste shall be collected more frequently, as may be fixed by the Director of the Health Department, upon a determination that more collections are necessary for the preservation of the public health with respect

to any particular establishment producing solid waste, or collected more frequently as may be fixed by the Fire Marshall or Chief of Fire and Rescue Department upon a determination that more frequent collections are necessary for the preservation of the public safety with respect to any particular establishment producing flammable solid waste.

(d) Any solid waste management bond or other surety held by Fairfax County as required by Article 4 may be used to pay for collection of waste where the collector for whom the bond/surety was issued has failed to meet the minimum collection frequency specified in this Article.

Section 109.1-5-5. Collection points and set-out restrictions.

(a) Solid waste and recycling containers for residential use shall be stored upon the residential premises. Solid waste containers shall be of sturdy, rodent and insect resistant and watertight construction with tight fitting lids sufficient to prevent leakage or spillage of the disposed materials contained therein. The outside storage of household waste in plastic bags with closed tops for not more than 12 hours is allowed. Loose, bulky non-putrescible materials which are too large to fit into mechanically dumped containers may be set out, provided that they are: 1) securely bundled; or 2) completely contained in cardboard boxes or plastic bags which are adequately secured to prevent leakage or spillage and; 3) individual bundles, bags, boxes or other containers do not exceed four feet in length and fifty pounds in weight.

(b) Solid waste and recycling containers for all other uses shall be stored upon private property, at points which shall be well drained and fully accessible to collection vehicles and to public health inspection, fire inspection, and solid waste inspection personnel.

(c) Recyclable materials shall be set out separately from solid waste intended for disposal, bundled, contained in plastic or metal bins, kraft paper bags, or transparent plastic bags, and adequately secured to prevent leakage or spillage, but not to preclude visual identification and inspection. Individual containers, bundles, bags, and/or boxes of recyclable materials set out for collection shall not exceed four feet in length and fifty pounds in weight.

(d) On each scheduled collection day, residential solid waste and recyclables shall be placed at the curb line or at a point on the property line at the edge of pavement or terminal point of a pipestem driveway easement, adjacent to the public right of way where the collection vehicle stops. Residential solid waste and recyclables shall not be set out for curbside collection on any sidewalks or any other portion of the public right of way where they could interfere with pedestrians or

vehicular traffic.

(e) No collection vehicles of any type are required to enter into any pipestem driveway for the purpose of conducting solid waste or recycling collection operations or turning around.

(f) If waste and/or recyclables placed at the curb or in the public right-of-way are not picked up within ten days, the County may remove them and recover the costs of removal.

Section 109.1-5-6. Collection vehicles and containers.

(a) All collection vehicles and containers to be used in the collection of solid waste shall be kept and maintained in a manner that prevents spillage of the types of solid waste to be collected therein, and provides proper control of odors, vermin, and liquid waste leakage.

(b) All collection vehicles for which a collection vehicle permit is being sought must be designed and manufactured specifically for the collection of municipal solid waste. Design and manufacture shall include automatic dumping capabilities, watertight body, and additional requirements as determined by the Director in the collection vehicle inspection. All collection vehicles shall display the current name and telephone number of the company operating the vehicle.

(c) In the event of solid waste or recycling collection service cancellation, the owner of the solid waste or recycling collection container shall be responsible for removing the container(s). All such containers shall be removed within ten (10) business days of customer service cancellation. Any container with a capacity of two (2) cubic yards or larger which is not removed within ten (10) business days of service cancellation shall be deemed abandoned, and subject to removal by the County. The Director must make a reasonable attempt to notify the owner of the container prior to removal by the County. Containers removed by the County will be removed, emptied, and stored at the owner's expense, including the cost for disposal of waste contained therein, and may not be reacquired until all such expenses have been paid. Any container not reacquired within thirty (30) days will be forfeited to the County of Fairfax and sold at public auction, or added to the County's assets.

(d) All roll-off containers used for collection or transportation of solid waste shall have safety reflectors affixed to both sides and ends of container. Safety reflector requirements for said roll-off container shall include the use and/or combination of reflective tape, reflective paint, or reflective glass.

(e) All solid waste and recycling containers with a capacity of two (2) cubic yards or larger which are used for the

collection of solid waste or for the source separation of recyclable materials shall be clearly marked as to their capacity in cubic yards, the type(s) of materials acceptable for the container, and the owner's name and telephone number.

(f) Open-top roll-off containers may not be used to collect, store, or transport municipal solid waste or any other putrescible items.

Section 109.1-5-7. Alteration of collection service; required notices.

(a) Any collector shall give written notice of intent to alter collection service in the following manner:

(1) *Sale or transfer of business:* the Director and all customers shall be notified within thirty (30) days of such sale or transfer, if no change or interruption in service will occur.

(2) *Termination of service for nonpayment by customer:* the Director and all affected customers shall be notified no less than ten (10) days prior to the termination.

(3) *Termination of service for any other reason:* the Director and all affected customers shall be notified no less than thirty (30) days prior to the change.

(4) *Alteration of service or change in collection schedule:* the Director and all affected customers shall be notified no less than thirty (30) days prior to the change.

(b) Any prepaid customer account will be either refunded to the customer or transferred to the subsequent collector.

(c) All notifications to the Director required by this Section shall include a demonstration that all affected customers have been notified.

Section 109.1-5-8. Advance billing of customer.

Advance billing of residential customers shall not be permitted more than ninety (90) days in advance of delivery of collection service.

Section 109.1-5-9. Rates and charges for residential collection.

(a) Rates and charges shall be changed only after each residential customer and the Director have been given thirty (30) days' written notice in advance. Such notice shall include the amount of the increase. A rate change shall be deemed invalid if the collector fails to provide this notification.

(b) All notifications to the Director required by this Section shall include a demonstration that all affected customers have been notified.

Section 109.1-5-10. Assignment of customer.

The Director shall have the authority to assign a specific customer to a collector; provided that the assigned customer shall first have paid any outstanding collection charges properly due any collector; and provided further that the collector assigned by the Director shall be one currently providing collection service in the area in which the assigned customer is located. The collector to whom any such customer is assigned shall, upon receipt of notice of assignment, commence rendering of collection service as assigned.

ARTICLE 6. Solid Waste Transportation

Section 109.1-6-1. Manner of Operation.

(a) Any vehicle used to transport solid waste or recyclable materials in or through Fairfax County shall be operated in such a manner as not to create a nuisance or adversely affect public health.

(b) Solid waste and recyclables shall not be spilled, dumped, or thrown onto any street, court, lane, alley, sewer inlet, vacant lot, or public way, or private property or any area not designated as a permitted and authorized disposal site or recycling center.

(c) All vehicles used to transport liquid and semi-liquid wastes with non-watertight vehicle bodies shall carry said wastes in watertight containers.

(d) Any vehicle used to transport solid waste or recyclable materials and its contents shall not produce foul odors nor leak any fluids while parked or moving.

(e) Violation of this section shall constitute a nuisance per se.

Section 109.1-6-2. Parking on public rights-of-way prohibited.

(a) It is unlawful to park a vehicle which is being used to transport solid waste in or through Fairfax County on a public right-of-way. This prohibition does not apply to temporary or emergency stops during a collection route and shall not apply to the rights-of-way of interstate highways, arterial highways or extensions of arterial highways. Violation of this section shall constitute a nuisance per se.

(b) This section shall be enforced by uniformed County officers as set forth in Chapter 82 of this Code. The County Police Department is hereby authorized to immediately remove, or cause to be removed, any vehicle parked in violation of this section. The owner or operator of any such vehicle shall be required to pay, in addition to any fine, the charges for such removal and storage.

Section 109.1-6-3. Parking on private property.

It is unlawful to park a loaded or partially loaded collection or transfer vehicle which is being used to transport solid waste in or through Fairfax County on any private property unless: (1) the owner has consented in writing, (2) the written consent has been furnished to the Director, and (3) the site is a lawful place to store solid waste collection and/or transfer vehicles in accordance with the County Zoning Ordinance.

ARTICLE 7. Disposal of Solid Waste.

Section 109.1-7-1. Disposal site designation.

(a) All solid waste collected under the provisions of this Chapter shall be disposed of only at disposal sites designated by the Director.

(b) It shall be unlawful for any person to dispose of solid waste in or at any disposal site other than those designated by the Director pursuant to paragraph (a) above. This provision shall not apply to the occupants of single-family residences or family farms disposing of their own solid waste if such occupants have paid the fees, rates and charges of other single-family residences and family farms in the same service area.

(c) Nothing contained in previous subsections shall be deemed applicable to:

- (1) Solid waste generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or solid waste-derived fuels for sale to a person other than any entity controlling, controlled by or under the same control as the manufacturer, miner, processor, refiner or converter.
- (2) Recyclable materials which are those materials that have been source-separated by any person or materials separated from solid waste by any person for the subsequent utilization in both cases as a raw material to be manufactured into a new product other than fuel or energy.

(3) Construction/demolition debris to be disposed of in a CDD landfill.

(4) Solid waste destined for out-of-state disposal.

(d) All solid waste and recyclable materials disposed of at solid waste management facilities operated by the County of Fairfax shall become the property of the County.

Section 109.1-7-2. Hazardous waste prohibited.

No hazardous waste shall be disposed of at the I-66 Transfer Station, the I-95 Sanitary Landfill, the I-95 Energy/Resource Recovery Facility, or any other disposal site in Fairfax County. The Director may request an analysis by a certified laboratory deemed acceptable by the Director of any solid waste requested for disposal. The purpose of the laboratory analysis is to ensure that the solid waste does not contain any hazardous contaminants. The laboratory analysis must be submitted to the Director in advance and in writing. Only after favorable review by the Director may the solid waste be accepted for disposal.

Section 109.1-7-3. Out of county waste prohibited.

It shall be unlawful for any person to use a Fairfax County Certificate to Operate and/or permit for the disposal of solid waste originating outside the County of Fairfax, at the I-66 Transfer Station, I-95 Sanitary Landfill or I-95 Energy/Resource Recovery Facility, unless previously approved by the Director.

Section 109.1-7-4. Use of County solid waste management facilities

(a) The Director may establish rules and regulations, including disposal charges, for use of Fairfax County solid waste management facilities.

(b) Use of County facilities shall be limited to the purpose for which access is granted.

(c) All persons disposing of solid waste shall be charged, billed or invoiced for the disposal fees owed for use of County facilities. Any person failing to pay an account when due may incur a monthly charge of ten percent (10%) on the outstanding balance, annualized, from the first day following the day such account is due, or Ten Dollars (\$10.00), whichever is greater. An account shall be paid when payment has been received by the County.

Section 109.1-7-5. Permit for Solid Waste Management facility--Required.

No person shall locate, operate, conduct or maintain a

storage or disposal site (temporary or permanent), transfer station, MRF, landfill or any other type of solid waste management facility in the County unless all applicable state, federal and local laws, regulations, permits, and zoning requirements are met. Any facility must also be consistent with the County's Solid Waste Management Plan.

ARTICLE 8. Emergency Provisions

Section 109.1-8-1. Emergency Management

(a) This Article sets forth specific solid waste management requirements that shall take effect during an emergency. It is intended that the following take place with respect to solid waste management during emergency circumstances:

- (1) that the County will take the lead in coordinating emergency or disaster clean-up efforts countywide; and
- (2) that private collectors shall not be required to provide collection services in excess of the base levels of service defined elsewhere in this Chapter.

(b) At the Director's discretion, to the extent allowable by State and Federal law, specific requirements of this Chapter may be waived or suspended during a local emergency.

Section 109.1-8-2. Operation of Essential Facilities

(a) During a local emergency, the Director shall authorize, as necessary, the operation of primary and temporary solid waste management sites by the County, including the provision of equipment and personnel support to maintain the functionality of essential County services and support emergency response and disaster recovery operations.

(b) The Director shall provide refuse collection and disposal services as necessary to support operation of essential facilities used to receive and care for evacuees, volunteer workers, emergency responders, and maintenance and support personnel.

(c) Specifics of operations described in this Section shall be further described in the County's Emergency Operations, Continuity of Operations, and Debris Management Plans.

Section 109.1-8-3 Emergency Debris Management

Management of debris from areas impacted by an emergency shall continue to be a shared responsibility between the County and permitted private solid waste collectors. However, at the Director's discretion, the County may elect to provide solid waste removal and disposal services in any area where the County deems that existing permitted waste collection resources are overwhelmed and/or improperly trained and/or inadequately equipped for the prevailing emergency conditions.

ARTICLE 9. Enforcement.

Section 109.1-9-1 Enforcement Authorities

(a) The Director shall have and is hereby vested with the authority to pursue administrative, civil, or criminal enforcement actions on any entity that violates this Chapter.

(b) The Director may also undertake the following actions:

(1) Issue notices of violations for violations of any provision of this Chapter.

(2) Issue regulations and/or procedures to provide for administration, policy direction, and implementation of this Article.

(3) Make and enter into consent agreements incidental to the performance of the Director's duties and the execution of the Director's powers under this Article.

Section 109.1-9-2 Definition of Violation.

Except as otherwise provided (and regardless of the availability of other civil or administrative remedies and procedures for enforcing this Chapter), every act or condition prohibited by this Chapter, and every failure or omission to act as required herein, is a violation of this Chapter.

Section 109.1-9-3 Requirements for Written Notice

For the purpose of enforcing this Chapter, written notice may be provided by certified mail or by any appropriate method specified in VA Code Ann. § 8.01-296.

Section 109.1-9-4. CTO and/or permit suspension and revocation.

(a) Violation of any requirement of this Chapter, the Fairfax County Code, the Fairfax County Zoning Ordinance, or any court orders relating thereto, shall be grounds to deny, suspend, or revoke any solid waste CTO and/or permit.

(b) Specific examples of grounds for CTO and/or permit denial, suspension or revocation include, but are not limited to, the following:

- 1) Disposal of unacceptable or hazardous waste.
- 2) Collection services fail to meet any applicable Code requirement.
- 3) Failure to pay solid waste disposal fees.
- 4) Use of a Fairfax County-issued permit for the disposal of waste from outside the County without prior authorization.
- 5) Storage or consolidation of waste fails to meet any applicable Code requirement.
- 6) Failure to abide by the rules and regulations of a Fairfax County solid waste management facility
- 7) Failure to submit an accurate permit application.

(c) Further, it shall be unlawful, and grounds for CTO and/or permit denial, suspension or revocation, for any person to willfully misuse a collection vehicle, permit, and/or CTO. Misuse includes, but is not limited to, any switching of permits between collection vehicles, any use of a permit in an unpermitted collection vehicle or by an unpermitted collector, and/or any use of a discontinued CTO and/or permit.

(d) It shall be unlawful, and grounds for CTO and/or permit denial, suspension or revocation, for any company which is delinquent in its payment of the disposal bill to Fairfax County to use the collection vehicle and/or permit of another company to gain access to any County solid waste management facility. It shall be unlawful for any company to allow another company to use its collection vehicle and/or permit in the aforementioned manner.

(e) In the event the Director elects to consider suspending or revoking an issued CTO and/or permit, except in instances involving the nonpayment of solid waste disposal fees or the disposal of unacceptable or hazardous waste, the permit holder will be notified by certified mail that said CTO and/or permit is under review. The CTO/permit holder will have forty-eight (48) hours after receipt of the letter of notification to correct any

deficiencies and to notify the Director of the corrective action taken. If satisfactory corrective action is not taken within forty-eight (48) hours, the CTO and/or permit may be suspended or revoked by the Director. This shall not be construed to limit the authority of the Director to immediately suspend without notice any CTO/permit holder for the nonpayment of solid waste disposal fees or the disposal of unacceptable or hazardous waste.

(f) Any revocation, suspension or denial of a CTO or permit, other than those related to the nonpayment of solid waste disposal fees or the disposal of unacceptable or hazardous waste, shall be in writing and may be appealed to the County Executive or his designee within ten (10) days of the date of revocation, suspension or denial. Any appeal shall be in writing and filed with the County Executive or his designee. Thereafter, the County Executive, or his designee, shall promptly schedule a hearing at which the applicant and all interested parties, which may include but are not limited to the Director, the Division of Solid Waste Collection and Recycling, Division of Solid Waste Disposal and Resource Recovery, the Zoning Administrator, the Health Officer, the Police Department, and the Board of Supervisors of Fairfax County, Virginia, may present testimony or evidence. Any interested party or the applicant may be represented by counsel at the hearing.

Section 109.1-9-5 Penalties - Recycling Violations

Violation of any provision of the recycling requirements of this Chapter, or any rule or regulation adopted hereunder, including but not limited to the required registration of a recycling business, shall be punishable by a civil penalty not to exceed Five Hundred Dollars (\$500.00) for each offense. No criminal penalties shall be imposed for such violations. Each household, business, or collection point at which a violation of any provision of the recycling requirements of this Chapter occurs shall constitute a separate offense.

Section 109.1-9-6 Penalties - Disposal Violations

(a) Except as provided for in 109.1-9-6 (b), any disposal of waste at an improper or prohibited site shall be subject to a civil penalty not to exceed Five Hundred Dollars (\$500.00) for each offense. Each day any violation continues shall constitute a separate offense. Violators may also have their CTO and/or collection/ disposal permits denied, suspended, restricted or revoked, and denied a CTO and/or permit for a period of up to one (1) year from the time of the offense.

(b) Any person who disposes of solid waste originating outside the County of Fairfax at a County facility where such waste is prohibited shall be subject to suspension from use of said facility for a period of time not to exceed one hundred

twenty (120) calendar days and a civil penalty not to exceed Five Hundred Dollars (\$500.00) for each offense.

(c) Disposing of waste at a County solid waste management facility without having paid the required disposal fee will be considered a violation, and may subject the person to a civil penalty of up to Two Hundred Dollars (\$200.00).

Section 109.1-9-7 Penalties - Contracting With Unauthorized Collector

Contracting with a solid waste collector not authorized to perform refuse collection services within Fairfax County shall be subject to a civil penalty not exceeding Five Hundred Dollars (\$500.00) per offense. For purposes of this Section, evidence of a willful violation is the voluntary contracting by a person with a solid waste collector after having received written notice from the Director that the solid waste collector is not authorized to operate within the County.

Section 109.1-9-8 Penalties - Violations Not Otherwise Specified

The penalty for violation of any provision of this Chapter not otherwise specified in this Article shall be punishable by a fine or civil penalty not to exceed Five Hundred Dollars (\$500.00) for each offense.

Section 109.1-9-9 Penalties - Escalation of Penalty for Repeat Offenders

(a) Except as otherwise provided by Federal or Commonwealth statute or this Chapter, the Director shall have the authority to recommend leniency in the event of first violations, and to seek escalating penalties for repeated violations in a 12 month period.

(b) In circumstances where a person or business has violated one or more provisions of this Chapter on at least three separate occasions within 12 months, the Director shall pursue an additional civil charge equal to a reasonable estimate of the financial benefits of non-compliance

Section 109.1-9-10 Continuing Violations.

Except as otherwise provided (and regardless of the availability of other civil or administrative remedies and procedures for enforcing this Chapter), acts, omissions, or

conditions in violation of this Chapter which continue, exist, or occur on more than one day constitute separate violations and offenses on each such day.

Section 109.1-9-11 Consent Agreements

(a) As an alternative to pursuing criminal or civil remedies described elsewhere in this Section, the Director may make and enter into Consent Agreements with suspected violators as a means to resolve the violation(s).

(b) For the purpose of this Section, a Consent Agreement is an administrative order issued with the consent of both parties, to perform specific actions to come into compliance with this Chapter and any relevant rules and regulations.

(c) The Director shall develop Consent Agreements and generally draft them after one or more meetings with the alleged violator. Such agreements shall be developed cooperatively and entered into by mutual agreement, even though the Agreement shall effectively serve as a direct order to the alleged violator to comply.

(d) A Consent Agreement may be issued without an adversarial proceeding, and therefore need not include a determination that a violation has occurred.

(e) Consent Agreements issued pursuant to this Section shall include, at a minimum, the following:

(1) An established and enforceable course of action for bringing a suspected or alleged violator into compliance expeditiously, with explicit deadlines by which compliance must be achieved.

(2) The assessment and collection of a monetary penalty for the violation(s), consistent with the requirements of this Chapter and appropriate County policy and guidance.

(3) An explanation of what further actions the County may take if the violator fails to meet the terms of the Consent Agreement.

2. That Chapter 109 is repealed.

3. That this ordinance shall become effective upon adoption.

GIVEN under my hand this _____ day of _____, 2006

Nancy Vehrs
Clerk to the Board of Supervisors